

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION**

OLIVER W. HART, III

PETITIONER

v.

Civil No. 4:15-cv-4063

**RON STOVALL, Sheriff,
Miller County, Arkansas, *et al***

RESPONDENT

ORDER

BEFORE the Court is Petitioner's Motion to Supplement Petition. ECF 4o. 15. The Motion was referred to the undersigned for decision. There has been no response to the Motion.

Petitioner filed this matter on July 17, 2015. ECF No. 1. He alleged a violation of the Interstate Agreement on Detainers related to his arrest and conviction in 2008-09. ECF No. 1, p. 5. He also made two claims of ineffective assistance of counsel related to his plea of guilty in the Circuit Court of Miller County Arkansas on April 7, 2009. ECF No. 1, p. 6-9. The Respondents answered his allegations and alleged they were time barred and without merit. On April 28, 2016, United States Magistrate Judge James R. Marschewski, entered a Report and Recommendation, recommending the Petition be dismissed as time barred and alternatively without merit. ECF No. 14.

Petitioner now seeks to supplement his original Petition based on these alleged facts:

Petitioner was originally sentenced to a term of 10 years probation. Thereafter his probation supervision was transferred from Arkansas to Bowie County, Texas. On August 21, 2014, Petitioner was arrested in Bowie County Texas for a new crime. On August 27, 2014, a state probation officer in Miller County Arkansas filed a petition to revoke based on that alleged new crime. Arrest warrants were issued by the Arkansas State Court. on December 19, 2014, Petitioner

was arrested on those warrants in Miller County, Arkansas. According to Petitioner the new state charge in Texas and the probation violation allegations in Arkansas remain pending. He claims the State of Arkansas violated the terms of the Interstate Compact Offender Tracking System ("ICOTS") Article 1, Section 10, Clause 3, when it did not submit the warrants issued in August to the National Criminal Information Center (NCIC).

On May 6, 2016, Petitioner filed the instant motion asserting a violation ICOTS. He claims the failure to submit the Arkansas arrest warrants to NCIC was a violation of his due process rights and warrants dismissal of the pending probation violation proceedings against him.

These claims are completely separate from the claims raised in his Original Petition. The claims in the Original Petition are subject to dismissal pursuant to the pending Report and Recommendation. To allow Petitioner to supplement with completely separate claims after a Response from the Respondents and Report and Recommendation by this Court would prejudice the Respondents in this case, would unduly complicate the issues before the Court here, and does nothing to assist the Court in resolving the issues raised in the Original Petition. Accordingly the Motion to Supplement should be denied.

IT IS ORDERED, Petitioner's Motion to Supplement Petition (ECF No. 15) is **DENIED**.

Petitioner may attempt to raise the issues presented in the Supplement in a second petition. However, prior to filing any such second petition Petitioner must first obtain permission from the United States Court of Appeals for the Eighth Circuit pursuant to 28 U.S.C. § 2244(b).

ENTERED this 6th day of October 2016.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE